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WEDGWOOD, USA

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

**IN RE TABLEWARE ANTITRUST
LITIGATION**

Master File No. C-04-3514 VRW

CLASS ACTION

This Document Relates To
ALL ACTIONS

**ANSWER AND DEFENSES OF
DEFENDANT WATERFORD
WEDGWOOD USA, INC. TO THE
CONSOLIDATED AMENDED
COMPLAINT**

Defendant Waterford Wedgwood USA, Inc. (“Waterford Wedgwood”), by and through counsel, answers the Complaint as follows. Paragraphs are numbered to correspond to those of the Complaint. All allegations not expressly admitted are denied.

1. Waterford Wedgwood admits that Plaintiffs have invoked Sections 4 and 16 of the Clayton Act (15 U.S.C. §§15 and 26) but denies that Plaintiffs are entitled to any relief thereunder and denies that it has violated the federal antitrust laws, including Section 1 of the Sherman Antitrust, 15 U.S.C. § 1.

1 2. The allegations of paragraph 2 are admitted.
2 3. The allegations of paragraph 3 are admitted.
3 4. Waterford Wedgwood admits that it transacts business and is found within the
4 Northern District of California. Waterford Wedgwood is without knowledge or information
5 sufficient to form a belief as to the truth of the allegations regarding the other defendants, except
6 that it admits upon information and belief that they transact business within the Northern District
7 of California. Except as expressly admitted herein, paragraph 4 is otherwise denied.
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9 5. Waterford Wedgwood admits that plaintiffs purport to define the terms
10 “tableware” and “tableware products.” Except as expressly admitted herein, paragraph 5 is
11 otherwise denied.

12 6. Waterford Wedgwood is without knowledge or information sufficient to form a
13 belief as to the truth of the allegations of paragraph 6, and so the allegations are denied.
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15 7. Waterford Wedgwood is without knowledge or information sufficient to form a
16 belief as to the truth of the allegations of paragraph 7, and so the allegations are denied.

17 8. Waterford Wedgwood is without knowledge or information sufficient to form a
18 belief as to the truth of the allegations of paragraph 8, and so the allegations are denied.

19 9. Waterford Wedgwood admits on information and belief that Defendant Federated
20 Department Stores, Inc. is a corporation organized and existing under the laws of the State of
21 Delaware, with its principal place of business in Cincinnati, Ohio; that Federated Department
22 Stores, Inc. is a corporation engaged in the retail business and operates approximately 458 stores
23 in 34 states as of October 2004, under names which include, but are not limited to, Macy's,
24 Macy's East, Macy's West, Bloomingdale's, Bon-Macy's, Burdines-Macy's, Goldsmith's-
25 Macy's, Lazarus-Macy's, Rich-Macy's, Macys.com, Bloomingdale's By Mail, and a network of
26 online bridal registries operated in conjunction with WeddingChannel.com; and that Plaintiffs
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1 have used the term "Federated" in their Consolidated Amended Complaint to include all stores
2 owned and/or operated by defendant Federated Department Stores, Inc. which sold tableware,
3 manufactured by Defendants Lenox and Waterford, to plaintiffs and members of what Plaintiffs
4 claim to be a class. Waterford Wedgwood is without knowledge or information sufficient to form
5 a belief as to the truth of the allegation that, at all relevant times, Federated marketed, sold and/or
6 distributed tableware in the United States to members of the purported class, and so the allegation
7 is denied. Except as expressly admitted herein, the allegations of paragraph 9 are otherwise
8 denied.

10 10. Waterford Wedgwood admits on information and belief that Defendant The May
11 Department Stores Company is a corporation organized and existing under the laws of the State
12 of New York, with its principal place of business in St. Louis, Missouri; that the May Department
13 Stores Company is a corporation engaged in the retail business and operates a total of
14 approximately 1,124 stores in 46 states and the District of Columbia; that its department store
15 division includes approximately 444 department stores operated in 36 states under the names
16 which include, but are not limited to, Lord & Taylor, Famous-Barr, Filene's, Foley's, Hecht's,
17 Kaufmann's, L.S. Ayres, Meier & Frank, Marshall Field's, Robinsons-May, Strawbridge's, and
18 The Jones Store; that in addition to the department store division, The May Department Stores
19 Company operates approximately 680 stores in 45 states and Puerto Rico in the Bridal Group,
20 including David's Bridal, and Priscilla of Boston Stores; and, that Plaintiffs have used the term
21 "May" in their Consolidated Amended Complaint to include all stores owned and/or operated by
22 defendant The May Department Stores Company which sold tableware, manufactured by
23 Defendants Lenox and Waterford, to plaintiffs and members of the purported class. Waterford
24 Wedgwood is without knowledge or information sufficient to form a belief as to the truth of the
25 allegation that at all relevant times, May marketed, sold, and/or distributed tableware in the
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1 United States to members of the plaintiff Class, and so the allegation is denied. Except as
2 expressly admitted herein, the allegations of paragraph 10 are otherwise denied.

3 11. Waterford Wedgwood admits on information and belief that Defendant Lenox,
4 Inc. (“Lenox”) is a wholly owned subsidiary of Brown-Forman; that Lenox is a New Jersey
5 corporation with its headquarter located in New Jersey; that Lenox was founded in 1889 and is
6 one of America's leading manufacturers and marketers of fine tableware; and, that Lenox
7 manufactures and markets the fine china, crystal, collectibles, and giftware of Lenox; the
8 tableware and giftware of Dansk International Designs; the silver, crystal and china of Gorham;
9 the silver and pewter products of Kirk Stieff; and the luggage and leather goods of Hartmann.
10 Waterford Wedgwood is without knowledge or information sufficient to form a belief as to the
11 truth of the allegation that at all relevant times, Lenox manufactured, marketed, sold, and/or
12 distributed tableware in the United States to members of the purported class, and so the allegation
13 is denied. Except as expressly admitted herein, the allegations of paragraph 11 are otherwise
14 denied.
15

16 12. Waterford Wedgwood admits that it is a wholly owned subsidiary of Waterford
17 Wedgwood plc; that Waterford Wedgwood plc. was established in 1986 with the merger of
18 Waterford Crystal and Wedgwood; that it is represented in more than 80 countries; that products
19 which extended the Waterford brand beyond its core crystal products include china, table and bed
20 linens, stainless flatware and silver gifts, writing instruments, holiday heirlooms, and crystal
21 jewelry. Waterford Wedgwood denies that it is the leading manufacturer and marketer of luxury
22 lifestyle goods with its three major brands recognized worldwide - Waterford, Wedgwood, and
23 Rosenthal, but avers that this is true of Waterford Wedgwood plc. Waterford Wedgwood denies
24 that in February of 1998, it acquired a majority share in Rosenthal, AG. and that it owned 89.9
25 percent of Rosenthal, AG as of 2001, but avers that this is true of Waterford Wedgwood plc.
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1 Waterford Wedgwood denies that Waterford Wedgwood plc is headquartered in Dublin, Ireland
2 and avers that it is headquartered in Waterford, Ireland. Waterford Wedgwood is without
3 knowledge or information sufficient to form a belief as to the truth of the allegation that at all
4 relevant times, Waterford manufactured, marketed, sold and/or distributed tableware in the
5 United States to members of the purported class, and so the allegation is denied. Except as
6 expressly admitted herein, the allegations of paragraph 12 are otherwise denied.
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8 13. The allegations of paragraph 13 are denied.

9 14. Waterford Wedgwood admits that plaintiffs have invoked Rules 23(a) and b(3) of
10 the Federal Rules of Civil Procedure and that they have described a purported class. Waterford
11 Wedgwood denies that the purported class satisfies the requirements of F.R.Civ.P.23. Except as
12 expressly admitted herein, the allegations of paragraph 14 are otherwise denied.
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14 15. The allegations of paragraph 15 are denied.

15 16. Waterford Wedgwood admits that it sold and shipped tableware to Federated and
16 May stores throughout the United States which Federated and May resold to consumers
17 throughout the United States. Waterford Wedgwood admits on information and belief that Lenox
18 sold and shipped tableware to Federated and May stores throughout the United States which
19 Federated and May resold to consumers throughout the United States. Except as expressly
20 admitted herein, the allegations of paragraph 16 are otherwise denied.
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22 17. The allegations of paragraph 17 are admitted.

23 18. The allegations of paragraph 18 are admitted.

24 19. Waterford Wedgwood admits that Federated and May have wedding registries and
25 that they own and operate large, older, and established department stores operating in large urban
26 areas throughout the United States. Except as expressly admitted herein, the allegations of
27 paragraph 19 are otherwise denied.
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20. Waterford Wedgwood is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 20 of the Complaint, and so they are denied.

21. Waterford Wedgwood admits that Eliot Spitzer is the Attorney General of the State of New York; that he commenced an investigation concerning the sale of tableware; that he interviewed witnesses and/or examined witnesses under oath; and, that he reviewed documents. Except as expressly admitted herein, the allegations of paragraph 21 are otherwise denied.

22. The allegations of paragraph 22 are admitted.

23. The allegations of paragraph 23 are denied.

24. The allegations of paragraph 24 are denied.

25. The allegations of paragraph 25 are denied.

26. The allegations of paragraph 26 are denied.

27. The allegations of paragraph 27 are denied.

PRAYER FOR RELIEF

Waterford Wedgwood denies that plaintiffs are entitled to the relief requested in their Prayer for Relief.

AFFIRMATIVE DEFENSES

First Defense: Plaintiffs have failed to state a claim upon which relief may be granted.

Second Defense: Plaintiffs' claims are barred, in whole or in part, because they do not have standing to assert those claims.

Third Defense: Plaintiffs' claims are barred, in whole or in part, because they have not suffered any antitrust injury.

1 Fourth Defense: Plaintiffs' claims are barred, in whole or in part, because they have not suffered
2 any injury in fact.
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4 Fifth Defense: Plaintiffs' have failed to state an adequate basis for an award of treble damages.
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6 Sixth Defense: Plaintiffs' claims are barred, in whole or in part, by the applicable statute of
7 limitations.
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10 Seventh Defense: Plaintiffs' claims are barred, in whole or in part, by the doctrines of estoppel,
11 waiver and laches.
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14 Eighth Defense: Plaintiffs' claims are barred, in whole or in part, because Waterford Wedgwood
15 acted in good-faith, legitimate competition.
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17 Ninth Defense: Plaintiffs' claims are barred, in whole or in part, because they cannot properly be
18 maintained as a class action.
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21 Tenth Defense: Waterford Wedgwood incorporates and adopts by reference any affirmative
22 defense pled by any other party to the extent applicable to it.
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Respectfully submitted,

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Dated: March 25, 2005

Certificate of Service

I hereby certify that, on this 25th day of March 2005, I caused true and correct copy of the foregoing Answer to be served by first class mail, postage prepaid, on the following:

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